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7 Attorneys for Defendant
8 SMITH'S FOOD & DRUG CENTERS, INC.

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 ELPENIKE EDDY-ALDAVA, an individual,

12 Plaintiff,

13 vs.

14 SMITH'S FOOD & DRUG CENTERS, INC.
15 dba SMITH'S FOOD AND DRUG, a foreign
corporation; DOES I through X; and ROE
ENTITIES I through X,

16 Defendants.

17 Case No. 2:23-cv-01660-JCM-MDC

18 **STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

19 **[FIRST REQUEST]**

20 There is good cause for this Stipulation in accordance with Local R. 26-3 (requiring that a
“stipulation to extend any date set by the discovery plan, scheduling order, or other order... must be
supported by a showing of good cause for the extension”).

21 The Parties in this case have been working diligently to gather medical records, conduct
22 depositions, and engage in other meaningful discovery. However, there have been issues that have
23 hindered this process. First, Plaintiff has been working to notice the depositions of percipient employee
24 witnesses of Defendant SMITH'S, but due to availability issues, these depositions have been moved to
25 May 2024 at the earliest. Therefore, the previously set depositions of these key employee witnesses
26 have been postponed, and any resulting discovery will likewise have to be postponed.

27 Second, Plaintiff's counsel have a firm trial date in another matter, thereby affecting their ability
28 to focus on the case at hand. Defendant SMITH'S is sympathetic to the situation and agrees that

1 additional time to conduct discovery will be necessary. In order to allow the Parties to conduct
 2 meaningful discovery to prepare for trial, the instant Stipulation has been entered into and agreed to by
 3 all Parties to request an additional ninety (90) days to conduct vital discovery. This is the first such
 4 Stipulation sought by the Parties.

5 **IT IS HEREBY STIPULATED** by and between Plaintiff ELPENIKE EDDY-ALDAVA
 6 (hereinafter “Plaintiff”), by and through her counsel of record, DAVID A. TANNER, ESQ. and
 7 JEFFREY C. GUNN, ESQ. of the law firm of TANNER LAW FIRM, and Defendant SMITH’S FOOD
 8 & DRUG CENTERS, INC. (hereinafter “SMITH’S”), by and through its counsel of record, JERRY S.
 9 BUSBY, ESQ. and POOJA KUMAR, ESQ. of the law firm of COOPER LEVENSON, P.A., that all
 10 deadlines be extended by ninety (90) days, as set forth below, to allow the Parties time to complete
 11 necessary discovery prior to trial.

12 **I. STATEMENT SPECIFYING DISCOVERY THAT HAS BEEN COMPLETED**

13 To date, the Parties have completed the following discovery:

- 14 • Plaintiff has served her FRCP 26(a)(1) initial disclosure statement and two supplements thereto.
- 15 • SMITH’S has served its FRCP 26(a)(1) initial disclosure statement and erratum thereto.
- 16 • Both Parties have propounded written discovery requests upon each other pursuant to FRCP 33, 34,
 17 and 36.
- 18 • Both Parties have responded to propounded written discovery requests.
- 19 • The Parties have been collecting Plaintiff’s relevant medical records.
- 20 • SMITH’S has taken the deposition of Plaintiff.
- 21 • Plaintiff has noticed the depositions of percipient employee witnesses of SMITH’S and has amended
 22 these deposition notices twice.
- 23 • Plaintiff has noticed the deposition of the FRCP 30(b)(6) representative of SMITH’S and has
 24 amended this deposition notice twice.
- 25 • The Parties have met and conferred in good faith regarding reasonable discovery remaining to be
 26 completed and a reasonable timeline for the completion of remaining discovery.

27 **II. SPECIFIC DESCRIPTION OF DISCOVERY THAT REMAINS TO BE COMPLETED**

28 The Parties have yet to complete the following discovery:

- 1 • The Parties continue to collect Plaintiff's relevant medical records.
- 2 • Plaintiff will take the depositions of percipient employee witnesses of SMITH'S.
- 3 • Plaintiff will take the deposition of SMITH'S FRCP 30(b)(6) representative.
- 4 • The Parties intend to retain and designate initial and rebuttal expert witnesses.
- 5 • The Parties intend to conduct a site inspection of the area where the subject incident occurred.
- 6 • SMITH'S intends to depose Plaintiff's key medical providers.
- 7 • The Parties intend to depose disclosed expert witnesses.
- 8 • The Parties will assess the need for and, if appropriate, propound additional written discovery
- 9 requests.
- 10 • The Parties intend to serve supplements to written discovery responses and disclosures.
- 11 • The Parties will assess the need for additional discovery and conduct same accordingly.

12 **III. REASONS WHY DISCOVERY REMAINING WAS NOT COMPLETED WITHIN**
 13 **DEADLINES CONTAINED IN DISCOVERY PLAN AND SCHEDULING ORDER**

14 Since the commencement of discovery, the Parties have been working amicably together to
 15 gather relevant documents, issue necessary discovery, and depose necessary parties and witnesses.
 16 However, due to the availability of SMITH'S employees who likely have information regarding the
 17 subject incident, these depositions have been pushed back over one month. Plaintiff's counsel has
 18 graciously vacated previously set depositions for those key employees, and the Parties are working to get
 19 these depositions completed.

20 Additionally, Plaintiff's counsel have a firm trial setting that they are preparing for, and the trial
 21 requires undivided attention. SMITH'S understands this situation and is willing to extend discovery to
 22 accommodate Plaintiff's counsel's schedule.

23 Finally, the Parties are working to obtain complete medical records for Plaintiff. SMITH'S is
 24 looking to obtain additional authorizations for relevant medical providers and then request medical
 25 records using same. Due to these issues, the Parties respectfully request an additional ninety (90) days to
 26 complete adequate and vital discovery to prepare for trial in this matter.

27 **IV. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY**

28 As a result of the above, it is requested that the discovery deadlines in this case be continued

1 ninety (90) days from their present deadlines, as follows:

2 1. **Discovery Cut-Off Date**: The Parties jointly propose that the discovery cut-off date be
3 extended ninety (90) days from its present deadline of July 9, 2024, to **October 7, 2024**.

4 2. **Amending the Pleadings and Adding Parties**: The Parties jointly propose that the
5 deadline to amend pleadings and add parties be extended ninety (90) days from its present deadline of
6 April 10, 2024, to **July 9, 2024**.

7 3. **Fed. R. Civ. P. 26(a)(2) Disclosure of Experts**: The Parties jointly propose that the
8 initial expert disclosure deadline be extended ninety (90) days from its present deadline of May 10,
9 2024, to **August 8, 2024**; and the rebuttal expert disclosure deadline be extended ninety-two (92) days
10 from its present deadline of June 10, 2024, to **September 9, 2024**.

11 4. **Dispositive Motions**: In the event that the discovery period is extended from the
12 discovery cut-off date set forth in the applicable Discovery Plan and Scheduling Order, the Parties
13 jointly propose that the date for filing dispositive motions be extended ninety (90) days from its present
14 deadline of August 8, 2024, to **November 6, 2024**.

15 5. **Pre-Trial Order**: The Parties jointly propose that the date for filing the joint pre-trial
16 order, which is currently set for September 9, 2024, be extended ninety (90) days to **December 6, 2024**.
17 In the event that dispositive motions are filed, the Parties jointly propose that the date for filing the joint
18 pre-trial order be suspended until thirty (30) days after decision on dispositive motions or until further
19 Order of the Court. In the further event that the discovery period is extended from the discovery cut-off
20 date set forth in the applicable Discovery Plan and Scheduling Order, the Parties jointly propose that the
21 date for filing the joint pre-trial order be extended in accordance with the time periods set forth in this
22 Paragraph.

23 6. **Fed. R. Civ. P. 26(a)(3) Disclosure**: The disclosure required by FRCP 26(a)(3), and any
24 objections thereto, shall be included in the joint pre-trial order.

25 7. **Alternative Dispute Resolution**: Counsel for the Parties certify that they met and
26 conferred about the possibility of using alternative dispute resolution including mediation, arbitration,
27 and/or early neutral evaluation. The Parties have not scheduled any such ADR forum at this point, but
28 they agree to reconsider following additional or completion of discovery.

1 8. **Alternative Forms of Case Disposition:** The Parties certify that they discussed
2 consenting to trial by a magistrate judge or engaging in the Short Trial Program under FRCP 73 and, at
3 present, do not consent to either alternative form of case disposition.

4 9. **Electronic Evidence:** The Parties certify that they have discussed and intend to use
5 electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format
6 compatible with the Court's electronic jury evidence display system. At present, the Parties have not
7 agreed upon any stipulations regarding the use of electronic evidence but will address this issue again in
8 the joint pre-trial order.

9 10. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** Any
10 stipulation or motion must be made no later than twenty-one (21) days before the subject deadline.
11 Requests to extend discovery deadlines must comply fully with LR 26-3.

12 **IT IS SO STIPULATED.**

13 DATED this 27th day of March, 2024.

14 TANNER LAW FIRM

COOPER LEVENS, P.A.

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16 _____
17 /s/ *Jeffrey G. Gunn*
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26 SMITH'S FOOD & DRUG CENTERS, INC.

27
28 **IT IS SO ORDERED.**

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32 **Maximiliano D. Couvillier III**
33 **UNITED STATES MAGISTRATE JUDGE**
34 DATED: March 28, 2024